

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**ADELIO RIBERA-MIRANDA,**

**Defendant.**

**CASE NO. 8:09CR17**

**MEMORANDUM  
AND ORDER**

This matter is before the Court on the Report and Recommendation (Filing No. 38) issued by Magistrate Judge Thomas D. Thalken recommending denial of the Defendant's Motion to Suppress (Filing No. 30). No objections have been filed to the Report and Recommendation as allowed by 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3(a).

The Defendant seeks an order suppressing evidence of any and all statements made by him at his grocery store in Omaha, Nebraska, to law enforcement officers on January 7, 2009, along with any evidence derived therefrom.

Notwithstanding the absence of objections, pursuant to 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3, the Court has conducted a de novo review of the record. The Court has read the Defendant's Motion (Filing No. 30) and the transcript (Filing No. 37). Judge Thalken concluded that Ribera-Miranda was not in custody until after the conclusion of the interview, and that the circumstances surrounding the interrogation would not make a reasonable person believe he was in custody. Judge Thalken further found that Agent Buckley informed Ribera-Miranda of his *Miranda* rights before Agent Dostal continued the interrogation. Based on these findings, Judge Thalken concluded that the Defendant's Fifth Amendments rights had not been violated. Because Judge Thalken fully, carefully, and

correctly applied the law to the facts, the Court adopts the Report and Recommendation in its entirety.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation (Filing No. 38) is adopted in its entirety; and
2. The Defendant's motion to suppress (Filing No. 30) is denied.

DATED this 19<sup>th</sup> day of June, 2009.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge